



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILED DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/612,128	03/07/96	CALANDRA	F 960273

C5M1/0529
WEBB ZIESENHEIM BRUENING LOGSDON
ORKIN & HANSON
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURG PA 15219-1818

EXAMINER

TAYLOR, D

ART UNIT PAPER NUMBER

3506

DATE MAILED: 05/29/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 2/28/97

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 1-24 is/are rejected.
☒ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
☐ Interview Summary, PTO-413
☐ Notice of Draftperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Serial Number: 08/612,128

-2-

Art Unit: 3506

Part III DETAILED ACTION

Oath/Declaration

The reissue oath or Declaration filed February 28, 1997 is objected to as being defective. On page 1 of the declaration, in paragraph two, line 1, "sole" should be --joint--. Also, in paragraph two, the patent No. 5,292,202 should be --5,292,209--. Further, the declaration must identify the specification to which it is directed, not the patent number. In paragraph three, the statement in line 3 of "as amended by any amendment referred to herein" appears to be meaningless because no amendment is referred to in the declaration.

On page 2 of the declaration, first full paragraph, the reason that "It was not appreciated at the time" is a conclusionary statement that does not set forth facts in support as to why it was not appreciated. Also, same page, first and second full paragraph, patent No. 5,292,202 should be 5,292,209. As to the third full paragraph, the statement, last three lines, "New claim 24 encompasses a method utilizing an apparatus similar to that claimed in new claim 21" is insufficient as to the errors which are being corrected by new claim 24. The claim must state the differences from original claim 17, for example, not claim 21, which is also a new claim being added.

Serial Number: 08/612,128

-3-

Art Unit: 3506

As to Rule 1.175(a)(3) + (a)(5), when it is claimed that such patent is inoperative or invalid "by reason of the patentee claiming more or less than he had a right to claim in the patent," **each** of the excess or insufficiency of the claim(s) must be **distinctly specified**, for reasons as set forth in paper No. 6.

Claims 1-24 are considered to be rejectable under 35 USC 251 as being based on a defective reissue declaration. 37 CFR 1.175(a)(5). Applicant(s) declaration fails to comply with the requirement that Applicants specify "how the error arose or occurred".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Taylor whose **telephone number is (703) 308-1013**. The examiner can normally be reached on Monday-Thursday from 6:30 AM - 5:00 PM.

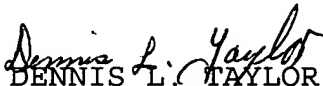
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tamara Graysay, can be reached on (703) 308-2144. The **fax phone number for this Group is (703) 305-3597 or 305-3598**.

Serial Number: 08/612,128

-4-

Art Unit: 3506

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.


DENNIS L. TAYLOR
PRIMARY EXAMINER
ART UNIT 3506

May 28, 1997
(7) 612128.2nd